

CSATE/STATE PRISON AT CORCORAN
P.O. 5278

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CORCORAN, CA 93212

NAME DONELL HAYNIE

NUMBER V26710

HOUSING A3-14-348

FILED

JUL 10 2023

CLERK, U.S. DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA
BY [Signature]
DEPUTY CLERK

United States District Court
Eastern District of California

DONELL HAYNIE,
PLAINTIFF

v.

C. Sysouvanh,
DEFENDANT

NO. 2:23-cv-01077-KJM-CKD

OBJECTIONS TO THE
MAGISTRATES FINDINGS
AND RECOMMENDATIONS.

TO THE CLERK OF THE ABOVE ENTITLED COURT: Please take notice of "OBJECTIONS TO THE MAGISTRATES FINDINGS AND RECOMMENDATIONS". On June 5, 2023, without having filed a Cross-Complaint in State Court defendant Sysouvanh filed a Notice of Removal of Plaintiff's Complaint from the Superior Court of the State of California, County of Sacramento, to the United States District Court for the Eastern District of California Pursuant to USC §§ 1441(a) and 1446.

On May 4, 2023, Plaintiff effected service of the Summons and Complaint upon Sysouvanh via the Amador County Sheriff's Department. However, due to the 32-Day delay of filing the

Notice of Removal in Case No. 2:23-cv-01077-KJM-CKD, this Court did not have Proper Jurisdiction to Screen the State Complaint and or submit "findings and recommendations" under 28 USC § 1446(b).

In *Deitrich v. Boeing*, No. 19-56409, (9th Cir. 2021), the Court held that § 1446(b) sets a 30-Day deadline to remove a Case to Federal Court, and that the 30-Days begin to run from the date the defendant receives the Initial Pleading; see also, *Salmonson v. Euromarket Designs, Inc.*, No. CV-11-5179 (C.D. Cal. Sep 28, 2011).

In this Case, service of the initial Pleading was effected on Sysouvanh on May 4, 2023, and in order for the defendant to have met

the time constraints under 28 USC § 1446(b), the Notice of Removal was required to be filed with this Court no later than June 2, 2023.

Thus, this Court was not at liberty to remove Plaintiff's case from the state's docket until it first determined that it lacked any authority to entertain the suit. See, *Carnegie-Mellon Univ v. Cohill*, 484 U.S. 343, 356; See also *Sprint Communications, Inc v. Jacobs*, 571 U.S. 69, 72 (Federal Courts are obliged to decide cases within the scope of Federal Jurisdiction assigned to them). Therefore, this case was untimely beyond the 30-day deadline under 28 USC § 1446(b) and this case should have been remanded back to the State Court Pursuant to 28 USC § 1446(b).

Wherefore, Plaintiff request that
this case be remanded to the
State Court Pursuant to 28 USC §
1446(b), due to the untimely filing
of the Notice of Removal.

RESPECTFULLY SUBMITTED,

DT: 7/6/2023

Donell Hayji

I declare under Penalty of Perjury
that the foregoing is true and correct
and that this declaration was again
executed on July 6, 2023.

DATE: 7/6/2023

D. Haynie